

REMARKS

This is in response to the Office Action dated June 20, 2004. Claims 65-71 have been canceled. New claims 72-75 have been added. Thus, claims 43-64 and 72-75 are now pending.

Claim 43 stands rejected under 35 U.S.C. Section 102(a) as being allegedly anticipated by WO '540. This Section 102(a) rejection is respectfully traversed for at least the following reasons.

Claim 43 requires that the coated article is chemically durable in that the coated article shows no visible discoloration or visible peeling after a reference of a one hour boil of a sample of the coated article in 5% HCl solution at about 220 degrees F. Clearly, this is a significant advantage which is expressly required by the claim. The cited art fails to disclose or suggest this aspect of claim 43.

WO '540 discloses a coated article including a metal nitride layer located between dielectric. However, the reference is silent with respect to chemical durability. In particular, the reference fails to disclose or suggest any coated article that shows no visible discoloration or visible peeling after a reference of a one hour boil of a sample of the coated article in 5% HCl solution at about 220 degrees F. There is nothing in WO '540 which would have led one of ordinary skill in the art to believe that this characteristic is achieved by any coated article described in the reference.

Moreover, in contrast to the allegations in the Office Action, the aforesaid underlined claimed feature recited in claim 43 is clearly not "inherent" in WO '540. Clear evidence of non-inherency is the fact that no coating in WO '540 is even remotely similar to any example coating described in the instant specification. Thus, it is respectfully requested that the rejection of claim 43 over WO '540 be withdrawn.

Claim 43 also stands rejected under 35 U.S.C. Section 102(a) as being allegedly anticipated by Hartig (US 6,059,909). This Section 102 rejection is respectfully traversed for at least the following reasons.

Claim 43 requires that the layer comprising the metal nitride is the primary infrared (IR) reflecting layer of the layer system. For example, see Fig. 1 of the instant application. Hartig fails to disclose or suggest this aspect of claim 43.

Hartig uses Ag as the primary IR reflecting layer. In other words, Hartig does not use a metal nitride inclusive layer as the primary IR reflecting layer. The metal nitride layers of Hartig are mere contact layers provided only for supporting the Ag layer. Thus, Hartig relates to a type of coating (silver based) which is entirely unrelated to the invention of claim 43.

Claim 43 also stands rejected under 35 U.S.C. Section 102(b) as being allegedly anticipated by Iida (US 5,085,926). This Section 102(b) rejection is respectfully traversed for at least the following reasons.

Claim 43 requires that the layer comprising the metal nitride is the primary infrared (IR) reflecting layer of the layer system. For example, see Fig. 1 of the instant application. Iida fails to disclose or suggest this aspect of claim 43.

In contrast to claim 43, Iida uses a metal layer 23 as the primary IR reflector – not a layer comprising metal nitride. Moreover, Iida expressly teaches that this layer is not to be nitrified (col. 4, lines 20-23), thereby teaching directly away from the invention of claim 43. Thus, it can be seen that Iida discloses the opposite of what claim 43 requires. Again, it is respectfully requested that the Section 102 rejection of claim 43 over Iida be withdrawn.

Claim 73 requires that "the layer comprising metal nitride is the primary infrared (IR) reflecting layer of the layer system, and wherein the layer system is formed so that the coated

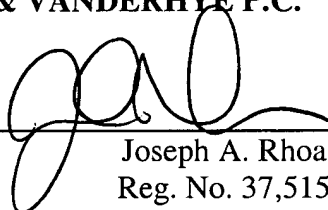
article has a glass side reflective ΔE^*_G value no greater than 4.0 after heat treatment; and wherein the layer system is formed so that the coated article is chemically durable so that the coated article before and/or after heat treatment shows no visible discoloration and no visible peeling after a reference of a one hour boil of a sample of the coated article in 5% HCl solution at about 220 degrees F." Again, the cited art fails to disclose or suggest these aspects of claim 73.

For at least the foregoing reasons, it is respectfully requested that all rejections be withdrawn. All claims are in condition for allowance. If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

Respectfully submitted,

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